

**ASSEMBLY BILL**

**No. 1527**

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**Introduced by Assembly Members Portantino and Ammiano**

January 23, 2012

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An act to amend Sections 7574.14 and 7582.2 of the Business and Professions Code, to add Section 25841 to the Government Code, to amend Sections 626.92, 16520, 16750, 16850, 17295, 25850, 26035, 26040, 26055, and 26350 of, to add Sections 16505 and 26390 to, and to add Chapter 7 (commencing with Section 26400) to Division 5 of Title 4 of Part 6 of, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1527, as introduced, Portantino. Firearms.

Existing law prohibits, with exceptions, a person from possessing a firearm in a place that the person knows or reasonably should know is a school zone, as defined.

This bill would additionally exempt a security guard authorized to openly carry an unloaded firearm that is not a handgun and an honorably retired peace officer authorized to openly carry an unloaded firearm that is not a handgun from that prohibition.

Existing law, subject to certain exceptions, makes it an offense to carry a loaded firearm on the person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory.

This bill would recast those provisions to make it an offense for a person to carry a loaded firearm on his or her person or in a vehicle in any public place or on any public street, public road, or public highway in an incorporated city, or on his or her person in any public place or

on any public street in a prohibited area of an unincorporated territory, or in a vehicle while in any public place or on any public street, public road, or public highway in any part of any unincorporated area.

Existing law, subject to certain exceptions, makes it an offense for a person to carry an exposed and unloaded handgun on his or her person outside a motor vehicle or inside or on a motor vehicle in public areas and public streets, as specified.

This bill would include public roads and public highways in the areas that a person is prohibited from carrying an exposed and unloaded handgun, as specified.

This bill would, subject to exceptions, make it a misdemeanor for a person to carry an unloaded firearm that is not a handgun on his or her person outside a motor vehicle in an incorporated city or city and county and would make it a misdemeanor with specified penalties if a person carries an unloaded firearm that is not a handgun outside a motor vehicle in an incorporated city or city and county and the person at the same time possesses ammunition capable of being discharged from the unloaded firearm that is not a handgun, and the person is not in lawful possession of the unloaded firearm that is not a handgun, as specified. The bill would also authorize a county board of supervisors to enact an ordinance that regulates the carrying of unloaded firearms that are not handguns in unincorporated areas of the county where the county has prohibited the discharge of firearms, as specified.

By creating a new offense, and expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The bill would make conforming technical changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 7574.14 of the Business and Professions
- 2 Code is amended to read:
- 3 7574.14. This chapter shall not apply to the following:

1 (a) An officer or employee of the United States of America, or  
2 of this state or a political subdivision thereof, while the officer or  
3 employee is engaged in the performance of his or her official  
4 duties, including uniformed peace officers employed part time by  
5 a public agency pursuant to a written agreement between a chief  
6 of police or sheriff and the public agency, provided the part-time  
7 employment does not exceed 50 hours in any calendar month.

8 (b) A person engaged exclusively in the business of obtaining  
9 and furnishing information as to the financial rating of persons.

10 (c) A charitable philanthropic society or association incorporated  
11 under the laws of this state that is organized and duly maintained  
12 for the public good and not for private profit.

13 (d) Patrol special police officers appointed by the police  
14 commission of any city, county, or city and county under the  
15 express terms of its charter who also under the express terms of  
16 the charter (1) are subject to suspension or dismissal after a hearing  
17 on charges duly filed with the commission after a fair and impartial  
18 trial, (2) must be not less than 18 years of age nor more than 40  
19 years of age, (3) must possess physical qualifications prescribed  
20 by the commission, and (4) are designated by the police  
21 commission as the owners of a certain beat or territory as may be  
22 fixed from time to time by the police commission.

23 (e) An attorney at law in performing his or her duties as an  
24 attorney at law.

25 (f) A collection agency or an employee thereof while acting  
26 within the scope of his or her employment, while making an  
27 investigation incidental to the business of the agency, including  
28 an investigation of the location of a debtor or his or her property  
29 where the contract with an assignor creditor is for the collection  
30 of claims owed or due or asserted to be owed or due or the  
31 equivalent thereof.

32 (g) Admitted insurers and agents and insurance brokers licensed  
33 by the state, performing duties in connection with insurance  
34 transacted by them.

35 (h) Any bank subject to the jurisdiction of the Commissioner  
36 of Financial Institutions of the State of California under Division  
37 1 (commencing with Section 99) of the Financial Code or the  
38 Comptroller of Currency of the United States.

39 (i) A person engaged solely in the business of securing  
40 information about persons or property from public records.

1 (j) A peace officer of this state or a political subdivision thereof  
2 while the peace officer is employed by a private employer to  
3 engage in off-duty employment in accordance with Section 1126  
4 of the Government Code. However, nothing herein shall exempt  
5 such a peace officer who either contracts for his or her services or  
6 the services of others as a private patrol operator or contracts for  
7 his or her services as or is employed as an armed private security  
8 officer. For purposes of this subdivision, “armed security officer”  
9 means an individual who carries or uses a firearm in the course  
10 and scope of that contract or employment.

11 (k) A retired peace officer of the state or political subdivision  
12 thereof when the retired peace officer is employed by a private  
13 employer in employment approved by the chief law enforcement  
14 officer of the jurisdiction where the employment takes place,  
15 provided that the retired officer is in a uniform of a public law  
16 enforcement agency, has registered with the bureau on a form  
17 approved by the director, and has met any training requirements  
18 or their equivalent as established for security personnel under  
19 Section 7583.5. This officer may not carry an unloaded and  
20 exposed handgun unless he or she is exempted under the provisions  
21 of Article 2 (commencing with Section 26361) of Chapter 6 of  
22 Division 5 of Title 4 of Part 6 of the Penal Code, *may not carry*  
23 *an unloaded firearm that is not a handgun unless he or she is*  
24 *exempted under the provisions of Article 2 (commencing with*  
25 *Section 26405) of Chapter 7 of Division 5 of Title 4 of Part 6 of*  
26 *the Penal Code*, and may not carry a loaded or concealed firearm  
27 unless he or she is exempted under the provisions of Sections  
28 25450 to 25475, inclusive, of the Penal Code or Sections 25900  
29 to 25910, inclusive, of the Penal Code or has met the requirements  
30 set forth in subdivision (d) of Section 26030 of the Penal Code.  
31 However, nothing herein shall exempt the retired peace officer  
32 who contracts for his or her services or the services of others as a  
33 private patrol operator.

34 (l) A licensed insurance adjuster in performing his or her duties  
35 within the scope of his or her license as an insurance adjuster.

36 (m) Any savings association subject to the jurisdiction of the  
37 Commissioner of Financial Institutions or the Office of Thrift  
38 Supervision.

1 (n) Any secured creditor engaged in the repossession of the  
2 creditor's collateral and any lessor engaged in the repossession of  
3 leased property in which it claims an interest.

4 (o) A peace officer in his or her official police uniform acting  
5 in accordance with subdivisions (c) and (d) of Section 70 of the  
6 Penal Code.

7 (p) An unarmed, uniformed security person employed  
8 exclusively and regularly by a motion picture studio facility  
9 employer who does not provide contract security services for other  
10 entities or persons in connection with the affairs of that employer  
11 only and where there exists an employer-employee relationship if  
12 that person at no time carries or uses any deadly weapon, as defined  
13 in subdivision (a), in the performance of his or her duties, which  
14 may include, but are not limited to, the following business  
15 purposes:

16 (1) The screening and monitoring access of employees of the  
17 same employer.

18 (2) The screening and monitoring access of prearranged and  
19 preauthorized invited guests.

20 (3) The screening and monitoring of vendors and suppliers.

21 (4) Patrolling the private property facilities for the safety and  
22 welfare of all who have been legitimately authorized to have access  
23 to the facility.

24 (q) An armored contract carrier operating armored vehicles  
25 pursuant to the authority of the Department of the California  
26 Highway Patrol or the Public Utilities Commission, or an armored  
27 vehicle guard employed by an armored contract carrier.

28 SEC. 2. Section 7582.2 of the Business and Professions Code  
29 is amended to read:

30 7582.2. This chapter does not apply to the following:

31 (a) A person who does not meet the requirements to be a  
32 proprietary private security officer, as defined in ~~Section 7574.1~~  
33 ~~7574.01~~, and is employed exclusively and regularly by any  
34 employer who does not provide contract security services for other  
35 entities or persons, in connection with the affairs of the employer  
36 only and where there exists an employer-employee relationship if  
37 that person at no time carries or uses any deadly weapon in the  
38 performance of his or her duties. For purposes of this subdivision,  
39 "deadly weapon" is defined to include any instrument or weapon  
40 of the kind commonly known as a blackjack, slungshot, billy,

1 sandclub, sandbag, metal knuckles, any dirk, dagger, pistol,  
2 revolver, or any other firearm, any knife having a blade longer  
3 than five inches, any razor with an unguarded blade and any metal  
4 pipe or bar used or intended to be used as a club.

5 (b) An officer or employee of the United States of America, or  
6 of this state or a political subdivision thereof, while the officer or  
7 employee is engaged in the performance of his or her official  
8 duties, including uniformed peace officers employed part time by  
9 a public agency pursuant to a written agreement between a chief  
10 of police or sheriff and the public agency, provided the part-time  
11 employment does not exceed 50 hours in any calendar month.

12 (c) A person engaged exclusively in the business of obtaining  
13 and furnishing information as to the financial rating of persons.

14 (d) A charitable philanthropic society or association duly  
15 incorporated under the laws of this state that is organized and  
16 maintained for the public good and not for private profit.

17 (e) Patrol special police officers appointed by the police  
18 commission of any city, county, or city and county under the  
19 express terms of its charter who also under the express terms of  
20 the charter (1) are subject to suspension or dismissal after a hearing  
21 on charges duly filed with the commission after a fair and impartial  
22 trial, (2) must be not less than 18 years of age nor more than 40  
23 years of age, (3) must possess physical qualifications prescribed  
24 by the commission, and (4) are designated by the police  
25 commission as the owners of a certain beat or territory as may be  
26 fixed from time to time by the police commission.

27 (f) An attorney at law in performing his or her duties as an  
28 attorney at law.

29 (g) A collection agency or an employee thereof while acting  
30 within the scope of his or her employment, while making an  
31 investigation incidental to the business of the agency, including  
32 an investigation of the location of a debtor or his or her property  
33 where the contract with an assignor creditor is for the collection  
34 of claims owed or due or asserted to be owed or due or the  
35 equivalent thereof.

36 (h) Admitted insurers and agents and insurance brokers licensed  
37 by the state, performing duties in connection with insurance  
38 transacted by them.

39 (i) Any bank subject to the jurisdiction of the Commissioner of  
40 Financial Institutions of the State of California under Division 1

1 (commencing with Section 99) of the Financial Code or the  
2 Comptroller of Currency of the United States.

3 (j) A person engaged solely in the business of securing  
4 information about persons or property from public records.

5 (k) A peace officer of this state or a political subdivision thereof  
6 while the peace officer is employed by a private employer to  
7 engage in off-duty employment in accordance with Section 1126  
8 of the Government Code. However, nothing herein shall exempt  
9 a peace officer who either contracts for his or her services or the  
10 services of others as a private patrol operator or contracts for his  
11 or her services as or is employed as an armed private security  
12 officer. For purposes of this subdivision, "armed security officer"  
13 means an individual who carries or uses a firearm in the course  
14 and scope of that contract or employment.

15 (l) A retired peace officer of the state or political subdivision  
16 thereof when the retired peace officer is employed by a private  
17 employer in employment approved by the chief law enforcement  
18 officer of the jurisdiction where the employment takes place,  
19 provided that the retired officer is in a uniform of a public law  
20 enforcement agency, has registered with the bureau on a form  
21 approved by the director, and has met any training requirements  
22 or their equivalent as established for security personnel under  
23 Section 7583.5. This officer may not carry an unloaded and  
24 exposed handgun unless he or she is exempted under the provisions  
25 of Article 2 (commencing with Section 26361) of Chapter 6 of  
26 Division 5 of Title 4 of Part 6 of the Penal Code, *may not carry*  
27 *an unloaded firearm that is not a handgun unless he or she is*  
28 *exempted under the provisions of Article 2 (commencing with*  
29 *Section 26405) of Chapter 7 of Division 5 of Title 4 of Part 6 of*  
30 *the Penal Code*, and may not carry a loaded or concealed firearm  
31 unless he or she is exempted under the provisions of Article 2  
32 (commencing with Section 25450) of Chapter 2 of Division 5 of  
33 Title 4 of Part 6 of the Penal Code or Sections 25900 to 25910,  
34 inclusive, of the Penal Code or has met the requirements set forth  
35 in subdivision (d) of Section 26030 of the Penal Code. However,  
36 nothing herein shall exempt the retired peace officer who contracts  
37 for his or her services or the services of others as a private patrol  
38 operator.

39 (m) A licensed insurance adjuster in performing his or her duties  
40 within the scope of his or her license as an insurance adjuster.

1 (n) Any savings association subject to the jurisdiction of the  
2 Commissioner of Financial Institutions or the Office of Thrift  
3 Supervision.

4 (o) Any secured creditor engaged in the repossession of the  
5 creditor's collateral and any lessor engaged in the repossession of  
6 leased property in which it claims an interest.

7 (p) A peace officer in his or her official police uniform acting  
8 in accordance with subdivisions (c) and (d) of Section 70 of the  
9 Penal Code.

10 (q) An unarmed, uniformed security person employed  
11 exclusively and regularly by a motion picture studio facility  
12 employer who does not provide contract security services for other  
13 entities or persons in connection with the affairs of that employer  
14 only and where there exists an employer-employee relationship if  
15 that person at no time carries or uses any deadly weapon, as defined  
16 in subdivision (a), in the performance of his or her duties, which  
17 may include, but are not limited to, the following business  
18 purposes:

19 (1) The screening and monitoring access of employees of the  
20 same employer.

21 (2) The screening and monitoring access of prearranged and  
22 preauthorized invited guests.

23 (3) The screening and monitoring of vendors and suppliers.

24 (4) Patrolling the private property facilities for the safety and  
25 welfare of all who have been legitimately authorized to have access  
26 to the facility.

27 (r) The changes made to this section by the act adding this  
28 subdivision during the 2005–06 Regular Session of the Legislature  
29 shall apply as follows:

30 (1) On and after July 1, 2006, to a person hired as a security  
31 officer on and after January 1, 2006.

32 (2) On and after January 1, 2007, to a person hired as a security  
33 officer before January 1, 2006.

34 SEC. 3. Section 25841 is added to the Government Code, to  
35 read:

36 25841. (a) A board of supervisors may enact an ordinance that  
37 regulates the carrying of unloaded firearms that are not handguns  
38 outside of a vehicle in the unincorporated area of a county where  
39 the county has prohibited the discharge of firearms, if the ordinance  
40 includes all of the exemptions set forth in the provisions of Article

2 (commencing with Section 26405) of Chapter 7 of Division 5 of Title 4 of Part 6 of the Penal Code, and the penalty provisions are established pursuant to Section 25132.

(b) No ordinance authorized by this section shall regulate any of the following firearms:

(1) Firearms that are prohibited by any provision listed in Section 16590 of the Penal Code.

(2) Assault weapons.

(3) Machineguns.

(4) Antique firearms.

(5) Destructive devices.

(6) .50 BMG rifles.

(c) Nothing in this section shall require that the board of supervisors to adopt an ordinance pursuant to this section regulating the carrying of firearms that are not handguns in all unincorporated areas of that county where the county has prohibited the discharge of firearms.

(d) Nothing in this section shall prevent the board of supervisors in adopting an ordinance pursuant to this section to include, in addition to all of the exemptions set forth in the provisions of Article 2 (commencing with Section 26405) of Chapter 7 of Division 5 of Title 4 of Part 6 of the Penal Code, additional exemptions that the board deems advisable.

(e) The following definitions apply for purposes of this section:

(1) “Antique firearm” has the same meaning as set forth in Sections 16170 and 16180 of the Penal Code.

(2) “Assault weapon” has the same meaning as set forth in Sections 30510 and 30515 of the Penal Code.

(3) “Destructive device” has the same meaning as set forth in paragraph (3) of subdivision (a) of Section 16460 of the Penal Code.

(4) “Firearm” has the same meaning as set forth in subdivisions (a) and (c) of Section 16520 of the Penal Code.

(5) “Handgun” has the same meaning as set forth in subdivision (a) of Section 16640 of the Penal Code.

(6) “Machinegun” has the same meaning as set forth in Section 16880 of the Penal Code.

(7) “Unloaded” has the same meaning as set forth in subdivision (b) of Section 17295 of the Penal Code.

(8) “.50 BMG rifle” has the same meaning as set forth in Section 30530 of the Penal Code.

SEC. 4. Section 626.92 of the Penal Code is amended to read:  
626.92. Section 626.9 does not apply to or affect any of the following:

(a) A security guard authorized to openly carry an unloaded handgun pursuant to Chapter 6 (commencing with Section 26350) of Division 5 of Title 4 of Part 6.

(b) An honorably retired peace officer authorized to openly carry an unloaded handgun pursuant to Section 26361.

*(c) A security guard authorized to openly carry an unloaded firearm that is not a handgun pursuant to Chapter 7 (commencing with Section 26400) of Division 5 of Title 4 of Part 6.*

*(d) An honorably retired peace officer authorized to openly carry an unloaded firearm that is not a handgun pursuant to Section 26405.*

SEC. 5. Section 16505 is added to the Penal Code, to read:

16505. For purposes of Chapter 7 (commencing with Section 26400) of Division 5 of Title 4, a firearm is “encased” when that firearm is enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied, or otherwise fastened with no part of that firearm exposed.

SEC. 6. Section 16520 of the Penal Code is amended to read:

16520. (a) As used in this part, “firearm” means any device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of any explosion or other form of combustion.

(b) As used in the following provisions, “firearm” includes the frame or receiver of the weapon:

- (1) Section 16550.
- (2) Section 16730.
- (3) Section 16960.
- (4) Section 16990.
- (5) Section 17070.
- (6) Section 17310.
- (7) Sections 26500 to 26588, inclusive.
- (8) Sections 26600 to 27140, inclusive.
- (9) Sections 27400 to 28000, inclusive.
- (10) Section 28100.

- 1 (11) Sections 28400 to 28415, inclusive.
- 2 (12) Sections 29010 to 29150, inclusive.
- 3 (13) Sections 29610 to 29750, inclusive.
- 4 (14) Sections 29800 to 29905, inclusive.
- 5 (15) Sections 30150 to 30165, inclusive.
- 6 (16) Section 31615.
- 7 (17) Sections 31705 to 31830, inclusive.
- 8 (18) Sections 34355 to 34370, inclusive.
- 9 (19) Sections 8100, 8101, and 8103 of the Welfare and
- 10 Institutions Code.
- 11 (c) As used in the following provisions, “firearm” also includes
- 12 any rocket, rocket propelled projectile launcher, or similar device
- 13 containing any explosive or incendiary material whether or not
- 14 the device is designed for emergency or distress signaling purposes:
- 15 (1) Section 16750.
- 16 (2) Subdivision (b) of Section 16840.
- 17 (3) Section 25400.
- 18 (4) Sections 25850 to 26025, inclusive.
- 19 (5) Subdivisions (a), (b), and (c) of Section 26030.
- 20 (6) Sections 26035 to 26055, inclusive.
- 21 (d) As used in the following provisions, “firearm” does not
- 22 include an unloaded antique firearm:
- 23 (1) Subdivisions (a) and (c) of Section 16730.
- 24 (2) Section 16550.
- 25 (3) Section 16960.
- 26 (4) Section 17310.
- 27 (5) Chapter 6 (commencing with Section 26350) of Division 5
- 28 of Title 4.
- 29 (6) *Chapter 7 (commencing with Section 26400) of Division 5*
- 30 *of Title 4.*
- 31 ~~(6)~~
- 32 (7) Sections 26500 to 26588, inclusive.
- 33 ~~(7)~~
- 34 (8) Sections 26700 to 26915, inclusive.
- 35 ~~(8)~~
- 36 (9) Section 27510.
- 37 ~~(9)~~
- 38 (10) Section 27530.
- 39 ~~(10)~~
- 40 (11) Section 27540.

1     ~~(11)~~

2     ~~(12)~~ Section 27545.

3     ~~(12)~~

4     ~~(13)~~ Sections 27555 to 27570, inclusive.

5     ~~(13)~~

6     ~~(14)~~ Sections 29010 to 29150, inclusive.

7     (e) As used in Sections 34005 and 34010, “firearm” does not  
8 include a destructive device.

9     (f) As used in Sections 17280 and 24680, “firearm” has the  
10 same meaning as in Section 922 of Title 18 of the United States  
11 Code.

12     (g) As used in Sections 29010 to 29150, inclusive, “firearm”  
13 includes the unfinished frame or receiver of a weapon that can be  
14 readily converted to the functional condition of a finished frame  
15 or receiver.

16     SEC. 7. Section 16750 of the Penal Code is amended to read:

17     16750. (a) As used in Section 25400, “lawful possession of  
18 the firearm” means that the person who has possession or custody  
19 of the firearm either lawfully owns the firearm or has the  
20 permission of the lawful owner or a person who otherwise has  
21 apparent authority to possess or have custody of the firearm. A  
22 person who takes a firearm without the permission of the lawful  
23 owner or without the permission of a person who has lawful  
24 custody of the firearm does not have lawful possession of the  
25 firearm.

26     (b) As used in Article 2 (commencing with Section 25850),  
27 Article 3 (commencing with Section 25900), and Article 4  
28 (commencing with Section 26000) of Chapter 3 of Division 5 of  
29 Title 4, ~~and Chapter 6 (commencing with Section 26350) of~~  
30 Division 5 of Title 4, *and Chapter 7 (commencing with Section*  
31 *26400) of Division 5 of Title 4*, “lawful possession of the firearm”  
32 means that the person who has possession or custody of the firearm  
33 either lawfully acquired and lawfully owns the firearm or has the  
34 permission of the lawful owner or person who otherwise has  
35 apparent authority to possess or have custody of the firearm. A  
36 person who takes a firearm without the permission of the lawful  
37 owner or without the permission of a person who has lawful  
38 custody of the firearm does not have lawful possession of the  
39 firearm.

40     SEC. 8. Section 16850 of the Penal Code is amended to read:

1 16850. As used in Sections 17740, 23925, 25105, 25205, and  
2 25610, in Article 3 (commencing with Section 25505) of Chapter  
3 2 of Division 5 of Title 4, ~~and in Chapter 6 (commencing with~~  
4 ~~Section 26350) of Division 5 of Title 4, and in Chapter 7~~  
5 ~~(commencing with Section 26400) of Division 5 of Title 4~~, “locked  
6 container” means a secure container that is fully enclosed and  
7 locked by a padlock, keylock, combination lock, or similar locking  
8 device. The term “locked container” does not include the utility  
9 or glove compartment of a motor vehicle.

10 SEC. 9. Section 17295 of the Penal Code is amended to read:

11 17295. (a) For purposes of Chapter 6 (commencing with  
12 Section 26350) of Division 5 of Title 4, a handgun shall be deemed  
13 “unloaded” if it is not “loaded” within the meaning of subdivision  
14 (b) of Section 16840.

15 (b) *For purposes of Chapter 7 (commencing with Section 26400)*  
16 *of Division 5 of Title 4, a firearm that is not a handgun shall be*  
17 *deemed “unloaded” if it is not “loaded” within the meaning of*  
18 *subdivision (b) of Section 16840.*

19 SEC. 10. Section 25850 of the Penal Code is amended to read:

20 25850. (a) A person is guilty of carrying a loaded firearm  
21 ~~when the person carries a loaded firearm on the person or in a~~  
22 ~~vehicle while in any public place or on any public street in an~~  
23 ~~incorporated city or in any public place or on any public street in~~  
24 ~~a prohibited area of unincorporated territory. does any of the~~  
25 ~~following:~~

26 (1) *Carries a loaded firearm on his or her person or in a vehicle*  
27 *in any public place or on any public street, public road, or public*  
28 *highway in an incorporated city.*

29 (2) *Carries a loaded firearm on his or her person in any public*  
30 *place or on any public street in a prohibited area of an*  
31 *unincorporated territory.*

32 (3) *Carries a loaded firearm in a vehicle while in any public*  
33 *place or on any public street, public road, or public highway in*  
34 *any part of any unincorporated area.*

35 (b) In order to determine whether or not a firearm is loaded for  
36 the purpose of enforcing this section, peace officers are authorized  
37 to examine any firearm carried by anyone on the person or in a  
38 ~~vehicle while in any public place or on any public street in an~~  
39 ~~incorporated city or prohibited area of an unincorporated territory~~  
40 *under the circumstances described in subdivision (a).* Refusal to

1 allow a peace officer to inspect a firearm pursuant to this section  
2 constitutes probable cause for arrest for violation of this section.

3 (c) ~~(1)~~ Carrying a loaded firearm in violation of ~~this section~~  
4 *paragraph (1) or (2) of subdivision (a)* is punishable, as follows:

5 ~~(1)~~

6 (A) Where the person previously has been convicted of any  
7 felony, or of any crime made punishable by a provision listed in  
8 Section 16580, as a felony.

9 ~~(2)~~

10 (B) Where the firearm is stolen and the person knew or had  
11 reasonable cause to believe that it was stolen, as a felony.

12 ~~(3)~~

13 (C) Where the person is an active participant in a criminal street  
14 gang, as defined in subdivision (a) of Section 186.22, under the  
15 Street Terrorism Enforcement and Prevention Act (Chapter 11  
16 (commencing with Section 186.20) of Title 7 of Part 1), as a felony.

17 ~~(4)~~

18 (D) Where the person is not in lawful possession of the firearm,  
19 or is within a class of persons prohibited from possessing or  
20 acquiring a firearm pursuant to Chapter 2 (commencing with  
21 Section 29800) or Chapter 3 (commencing with Section 29900)  
22 of Division 9 of this title, or Section 8100 or 8103 of the Welfare  
23 and Institutions Code, as a felony.

24 ~~(5)~~

25 (E) Where the person has been convicted of a crime against a  
26 person or property, or of a narcotics or dangerous drug violation,  
27 by imprisonment pursuant to subdivision (h) of Section 1170, or  
28 by imprisonment in a county jail not to exceed one year, by a fine  
29 not to exceed one thousand dollars (\$1,000), or by both that  
30 imprisonment and fine.

31 ~~(6)~~

32 (F) Where the person is not listed with the Department of Justice  
33 pursuant to Section 11106 as the registered owner of the handgun,  
34 by imprisonment pursuant to subdivision (h) of Section 1170, or  
35 by imprisonment in a county jail not to exceed one year, or by a  
36 fine not to exceed one thousand dollars (\$1,000), or both that fine  
37 and imprisonment.

38 ~~(7)~~

39 (G) In all cases other than those specified in ~~paragraphs (1) to~~  
40 ~~(6)~~ *subparagraphs (A) to (F)*, inclusive, as a misdemeanor,

1 punishable by imprisonment in a county jail not to exceed one  
2 year, by a fine not to exceed one thousand dollars (\$1,000), or by  
3 both that imprisonment and fine.

4 (2) *Carrying a loaded firearm in violation of paragraph (3) of*  
5 *subdivision (a) is a misdemeanor, punishable by imprisonment in*  
6 *a county jail not to exceed one year, by a fine not to exceed one*  
7 *thousand dollars (\$1,000), or by both that imprisonment and fine.*

8 (d) (1) Every person convicted under this section who has  
9 previously been convicted of an offense enumerated in Section  
10 23515, or of any crime made punishable under a provision listed  
11 in Section 16580, shall serve a term of at least three months in a  
12 county jail, or, if granted probation or if the execution or imposition  
13 of sentence is suspended, it shall be a condition thereof that the  
14 person be imprisoned for a period of at least three months.

15 (2) The court shall apply the three-month minimum sentence  
16 except in unusual cases where the interests of justice would best  
17 be served by granting probation or suspending the imposition or  
18 execution of sentence without the minimum imprisonment required  
19 in this section or by granting probation or suspending the  
20 imposition or execution of sentence with conditions other than  
21 those set forth in this section, in which case, the court shall specify  
22 on the record and shall enter on the minutes the circumstances  
23 indicating that the interests of justice would best be served by that  
24 disposition.

25 (e) A violation of this section that is punished by imprisonment  
26 in a county jail not exceeding one year shall not constitute a  
27 conviction of a crime punishable by imprisonment for a term  
28 exceeding one year for the purposes of determining federal firearms  
29 eligibility under Section 922(g)(1) of Title 18 of the United States  
30 Code.

31 (f) Nothing in this section, or in Article 3 (commencing with  
32 Section 25900) or Article 4 (commencing with Section 26000),  
33 shall preclude prosecution under Chapter 2 (commencing with  
34 Section 29800) or Chapter 3 (commencing with Section 29900)  
35 of Division 9 of this title, Section 8100 or 8103 of the Welfare and  
36 Institutions Code, or any other law with a greater penalty than this  
37 section.

38 (g) Notwithstanding paragraphs (2) and (3) of subdivision (a)  
39 of Section 836, a peace officer may make an arrest without a  
40 warrant:

1 (1) When the person arrested has violated this section, although  
2 not in the officer's presence.

3 (2) Whenever the officer has reasonable cause to believe that  
4 the person to be arrested has violated this section, whether or not  
5 this section has, in fact, been violated.

6 (h) A peace officer may arrest a person for a violation of  
7 paragraph (6) of subdivision (c), if the peace officer has probable  
8 cause to believe that the person is carrying a handgun in violation  
9 of this section and that person is not listed with the Department of  
10 Justice pursuant to paragraph (1) of subdivision (c) of Section  
11 11106 as the registered owner of that handgun.

12 SEC. 11. Section 26035 of the Penal Code is amended to read:

13 26035. Nothing in Section 25850 shall prevent any person  
14 engaged in any lawful business, including a nonprofit organization,  
15 or any officer, employee, or agent authorized by that person for  
16 lawful purposes connected with that business, from ~~having~~ carrying  
17 a loaded firearm within the person's place of business, or any  
18 person in lawful possession of private property from ~~having~~  
19 carrying a loaded firearm on that property.

20 SEC. 12. Section 26040 of the Penal Code is amended to read:

21 26040. Nothing in Section 25850 shall prevent any person from  
22 carrying a loaded firearm ~~in an area within an incorporated city~~  
23 while engaged in hunting, provided that the hunting at that place  
24 and time is not prohibited by the ~~city council~~. *Fish and Game Code*  
25 *and regulations adopted by the Fish and Game Commission, and*  
26 *that the loaded firearm is not in a vehicle. For purposes of this*  
27 *paragraph, the term "loaded firearm" means, in the case of a*  
28 *handgun, the definition set forth in subdivision (b) of Section*  
29 *16840, and in the case of a shotgun or rifle, the definition of loaded*  
30 *rifle or shotgun set forth in Section 2006 of the Fish and Game*  
31 *Code.*

32 SEC. 13. Section 26055 of the Penal Code is amended to read:

33 26055. Nothing in Section 25850 shall prevent any person from  
34 ~~having~~ carrying a loaded ~~weapon~~ firearm, if it is otherwise lawful,  
35 at the person's place of residence, including any temporary  
36 residence or campsite.

37 SEC. 14. Section 26350 of the Penal Code is amended to read:

38 26350. (a) (1) A person is guilty of openly carrying an  
39 unloaded handgun when that person carries upon his or her person

1 an exposed and unloaded handgun outside a vehicle while in or  
2 on any of the following:

3 (A) A public place~~or~~, public street, *public road, or public*  
4 *highway* in an incorporated city or city and county.

5 (B) A public street in a prohibited area of an unincorporated  
6 area of a county or city and county.

7 (C) A public place in a prohibited area of a county or city and  
8 county.

9 (2) A person is guilty of openly carrying an unloaded handgun  
10 when that person carries an exposed and unloaded handgun inside  
11 or on a vehicle, whether or not on his or her person, while in or  
12 on any of the following:

13 (A) A public place~~or~~, public street, *public road, or public*  
14 *highway* in an incorporated city or city and county.

15 (B) A public street in a prohibited area of an unincorporated  
16 area of a county or city and county.

17 (C) A public place in a prohibited area of a county or city and  
18 county.

19 (D) *Any public place or on any public street, public road, or*  
20 *public highway in any part of an unincorporated area.*

21 (b) (1) Except as specified in paragraph (2), a violation of this  
22 section is a misdemeanor.

23 (2) A violation of subparagraph (A) of paragraph (1) of  
24 subdivision (a) is punishable by imprisonment in a county jail not  
25 exceeding one year, or by a fine not to exceed one thousand dollars  
26 (\$1,000), or by both that fine and imprisonment, if both of the  
27 following conditions exist:

28 (A) The handgun and unexpended ammunition capable of being  
29 discharged from that handgun are in the immediate possession of  
30 that person.

31 (B) The person is not in lawful possession of that handgun.

32 (c) (1) Nothing in this section shall preclude prosecution under  
33 Chapter 2 (commencing with Section 29800) or Chapter 3  
34 (commencing with Section 29900) of Division 9, Section 8100 or  
35 8103 of the Welfare and Institutions Code, or any other law with  
36 a penalty greater than is set forth in this section.

37 (2) The provisions of this section are cumulative and shall not  
38 be construed as restricting the application of any other law.  
39 However, an act or omission punishable in different ways by

1 different provisions of law shall not be punished under more than  
2 one provision.

3 (d) Notwithstanding the fact that the term “an unloaded  
4 handgun” is used in this section, each handgun shall constitute a  
5 distinct and separate offense under this section.

6 SEC. 15. Section 26390 is added to the Penal Code, to read:

7 26390. Section 26350 does not apply to, or affect, the open  
8 carrying of an unloaded handgun in any of the following  
9 circumstances:

10 (a) The open carrying of an unloaded handgun that is regulated  
11 pursuant to Chapter 1 (commencing with Section 18710) of  
12 Division 5 of Title 2 by a person who holds a permit issued  
13 pursuant to Article 3 (commencing with Section 18900) of that  
14 chapter, if the carrying of that handgun is conducted in accordance  
15 with the terms and conditions of the permit.

16 (b) The open carrying of an unloaded handgun that is regulated  
17 pursuant to Chapter 2 (commencing with Section 30500) of  
18 Division 10 by a person who holds a permit issued pursuant to  
19 Section 31005, if the carrying of that handgun is conducted in  
20 accordance with the terms and conditions of the permit.

21 (c) The open carrying of an unloaded handgun that is regulated  
22 pursuant to Chapter 6 (commencing with Section 32610) of  
23 Division 10 by a person who holds a permit issued pursuant to  
24 Section 32650, if the carrying is conducted in accordance with the  
25 terms and conditions of the permit.

26 (d) The open carrying of an unloaded handgun that is regulated  
27 pursuant to Article 2 (commencing with Section 33300) of Chapter  
28 8 of Division 10 by a person who holds a permit issued pursuant  
29 to Section 33300, if the carrying of that handgun is conducted in  
30 accordance with the terms and conditions of the permit.

31 SEC. 16. Chapter 7 (commencing with Section 26400) is added  
32 to Division 5 of Title 4 of Part 6 of the Penal Code, to read:

1 CHAPTER 7. CARRYING AN UNLOADED FIREARM THAT IS NOT  
2 A HANDGUN IN AN INCORPORATED CITY OR CITY AND COUNTY  
3

4 Article 1. Crime of Carrying an Unloaded Firearm that is not  
5 a Handgun in an Incorporated City or City and County  
6

7 26400. (a) A person is guilty of carrying an unloaded firearm  
8 that is not a handgun in an incorporated city or city and county  
9 when that person carries upon his or her person an unloaded firearm  
10 that is not a handgun outside a vehicle while in the incorporated  
11 city or city and county.

12 (b) (1) Except as specified in paragraph (2), a violation of this  
13 section is a misdemeanor.

14 (2) A violation of subdivision (a) is punishable by imprisonment  
15 in a county jail not exceeding one year, or by a fine not to exceed  
16 one thousand dollars (\$1,000), or by both that fine and  
17 imprisonment, if the firearm and unexpended ammunition capable  
18 of being discharged from that firearm are in the immediate  
19 possession of the person and the person is not in lawful possession  
20 of that firearm.

21 (c) (1) Nothing in this section shall preclude prosecution under  
22 Chapter 2 (commencing with Section 29800) or Chapter 3  
23 (commencing with Section 29900) of Division 9, Section 8100 or  
24 8103 of the Welfare and Institutions Code, or any other law with  
25 a penalty greater than is set forth in this section.

26 (2) The provisions of this section are cumulative and shall not  
27 be construed as restricting the application of any other law.  
28 However, an act or omission punishable in different ways by  
29 different provisions of law shall not be punished under more than  
30 one provision.

31 (d) Notwithstanding the fact that the term “an unloaded firearm  
32 that is not a handgun” is used in this section, each individual  
33 firearm shall constitute a distinct and separate offense under this  
34 section.  
35

36 Article 2. Exemptions  
37

38 26405. Section 26400 does not apply to, or affect, the carrying  
39 of an unloaded firearm that is not a handgun in any of the following  
40 circumstances:

1 (a) By a person when done within a place of business, a place  
2 of residence, or on private property, if that person, by virtue of  
3 subdivision (a) of Section 25605, may carry a firearm within that  
4 place of business, place of residence, or on that private property  
5 owned or lawfully possessed by that person.

6 (b) By a person when done within a place of business, a place  
7 of residence, or on private property, if done with the permission  
8 of a person who, by virtue of subdivision (a) of Section 25605,  
9 may carry a firearm within that place of business, place of  
10 residence, or on that private property owned or lawfully possessed  
11 by that person.

12 (c) When the firearm is either in a locked container or encased  
13 and it is being transported directly between any place where a  
14 person is not prohibited from possessing that firearm and the course  
15 of travel shall include only those deviations between authorized  
16 locations as are reasonably necessary under the circumstances.

17 (d) If the person possessing the firearm reasonably believes that  
18 he or she is in grave danger because of circumstances forming the  
19 basis of a current restraining order issued by a court against another  
20 person or persons who has or have been found to pose a threat to  
21 his or her life or safety. This paragraph may not apply when the  
22 circumstances involve a mutual restraining order issued pursuant  
23 to Division 10 (commencing with Section 6200) of the Family  
24 Code absent a factual finding of a specific threat to the person's  
25 life or safety. Upon a trial for violating subdivision (a), the trier  
26 of fact shall determine whether the defendant was acting out of a  
27 reasonable belief that he or she was in grave danger.

28 (e) By any peace officer or any honorably retired peace officer  
29 if that officer may carry a concealed firearm pursuant to Article 2  
30 (commencing with Section 25450) of Chapter 2, or a loaded firearm  
31 pursuant to Article 3 (commencing with Section 25900) of Chapter  
32 3.

33 (f) By any person to the extent that person may openly carry a  
34 loaded firearm that is not a handgun pursuant to Article 4  
35 (commencing with Section 26000) of Chapter 3.

36 (g) As merchandise by a person who is engaged in the business  
37 of manufacturing, importing, wholesaling, repairing, or dealing in  
38 firearms and who is licensed to engage in that business, or the  
39 authorized representative or authorized agent of that person, while  
40 engaged in the lawful course of the business.

1 (h) By a duly authorized military or civil organization, or the  
2 members thereof, while parading or while rehearsing or practicing  
3 parading, when at the meeting place of the organization.

4 (i) By a member of any club or organization organized for the  
5 purpose of practicing shooting at targets upon established target  
6 ranges, whether public or private, while the members are using  
7 handguns upon the target ranges or incident to the use of a firearm  
8 that is not a handgun at that target range.

9 (j) By a licensed hunter while engaged in hunting or while  
10 transporting that firearm when going to or returning from that  
11 hunting expedition.

12 (k) Incident to transportation of a handgun by a person operating  
13 a licensed common carrier, or by an authorized agent or employee  
14 thereof, when transported in conformance with applicable federal  
15 law.

16 (l) By a member of an organization chartered by the Congress  
17 of the United States or a nonprofit mutual or public benefit  
18 corporation organized and recognized as a nonprofit tax-exempt  
19 organization by the Internal Revenue Service while on official  
20 parade duty or ceremonial occasions of that organization or while  
21 rehearsing or practicing for official parade duty or ceremonial  
22 occasions.

23 (m) Within a gun show conducted pursuant to Article 1  
24 (commencing with Section 27200) and Article 2 (commencing  
25 with Section 27300) of Chapter 3 of Division 6.

26 (n) Within a school zone, as defined in Section 626.9, with the  
27 written permission of the school district superintendent, the  
28 superintendent's designee, or equivalent school authority.

29 (o) When in accordance with the provisions of Section 171b.

30 (p) By any person while engaged in the act of making or  
31 attempting to make a lawful arrest.

32 (q) By a person engaged in firearms-related activities, while on  
33 the premises of a fixed place of business that is licensed to conduct  
34 and conducts, as a regular course of its business, activities related  
35 to the sale, making, repair, transfer, pawn, or the use of firearms,  
36 or related to firearms training.

37 (r) By an authorized participant in, or an authorized employee  
38 or agent of a supplier of firearms for, a motion picture, television  
39 or video production, or entertainment event, when the participant  
40 lawfully uses that firearm as part of that production or event, as

1 part of rehearsing or practicing for participation in that production  
2 or event, or while the participant or authorized employee or agent  
3 is at that production or event, or rehearsal or practice for that  
4 production or event.

5 (s) Incident to obtaining an identification number or mark  
6 assigned for that firearm from the Department of Justice pursuant  
7 to Section 23910.

8 (t) At any established public target range while the person is  
9 using that firearm upon that target range.

10 (u) By a person when that person is summoned by a peace  
11 officer to assist in making arrests or preserving the peace, while  
12 the person is actually engaged in assisting that officer.

13 (v) Incident to any of the following:

14 (1) Complying with Section 27560 or 27565, as it pertains to  
15 that firearm.

16 (2) Section 28000, as it pertains to that firearm.

17 (3) Section 27850 or 31725, as it pertains to that firearm.

18 (4) Complying with Section 27870 or 27875, as it pertains to  
19 that firearm.

20 (5) Complying with Section 27915, 27920, or 27925, as it  
21 pertains to that firearm.

22 (w) Incident to, and in the course and scope of, training of or  
23 by an individual to become a sworn peace officer as part of a course  
24 of study approved by the Commission on Peace Officer Standards  
25 and Training.

26 (x) Incident to, and in the course and scope of, training of or by  
27 an individual to become licensed pursuant to Chapter 4  
28 (commencing with Section 26150) as part of a course of study  
29 necessary or authorized by the person authorized to issue the  
30 license pursuant to that chapter.

31 (y) Incident to and at the request of a sheriff or chief or other  
32 head of a municipal police department.

33 (z) If all of the following conditions are satisfied:

34 (1) The open carrying occurs at an auction or similar event of  
35 a nonprofit public benefit or mutual benefit corporation at which  
36 firearms are auctioned or otherwise sold to fund the activities of  
37 that corporation or the local chapters of that corporation.

38 (2) The unloaded firearm that is not a handgun is to be auctioned  
39 or otherwise sold for that nonprofit public benefit or mutual benefit  
40 corporation.

1 (3) The unloaded firearm that is not a handgun is to be delivered  
2 by a person licensed pursuant to, and operating in accordance with,  
3 Sections 26700 to 26925, inclusive.

4 (aa) Pursuant to paragraph (3) of subdivision (b) of Section  
5 171c.

6 (ab) Pursuant to Section 171d.

7 (ac) Pursuant to subparagraph (F) of paragraph (1) of subdivision  
8 (c) of Section 171.7.

9 (ad) On publicly owned land, if the possession and use of  
10 unloaded firearm that is not a handgun is specifically permitted  
11 by the managing agency of the land and the person carrying that  
12 firearm is in lawful possession of that firearm.

13 (ae) By any of the following:

14 (1) The carrying of an unloaded firearm that is not a handgun  
15 that is regulated pursuant to Chapter 1 (commencing with Section  
16 18710) of Division 5 of Title 2 by a person who holds a permit  
17 issued pursuant to Article 3 (commencing with Section 18900) of  
18 that chapter, if the carrying of that firearm is conducted in  
19 accordance with the terms and conditions of the permit.

20 (2) The carrying of an unloaded firearm that is not a handgun  
21 that is regulated pursuant to Chapter 2 (commencing with Section  
22 30500) of Division 10 by a person who holds a permit issued  
23 pursuant to Section 31005, if the carrying of that firearm is  
24 conducted in accordance with the terms and conditions of the  
25 permit.

26 (3) The carrying of an unloaded firearm that is not a handgun  
27 that is regulated pursuant to Chapter 6 (commencing with Section  
28 32610) of Division 10 by a person who holds a permit issued  
29 pursuant to Section 32650, if the carrying of that firearm is  
30 conducted in accordance with the terms and conditions of the  
31 permit.

32 (4) The carrying of an unloaded firearm that is not a handgun  
33 that is regulated pursuant to Article 2 (commencing with Section  
34 33300) of Chapter 8 of Division 10 by a person who holds a permit  
35 issued pursuant to Section 33300, if the carrying of that firearm is  
36 conducted in accordance with the terms and conditions of the  
37 permit.

38 (af) By a licensed hunter while actually engaged in training a  
39 dog for the purpose of using the dog in hunting that is not

1 prohibited by law, or while transporting the firearm while going  
2 to or returning from that training.

3 SEC. 17. No reimbursement is required by this act pursuant to  
4 Section 6 of Article XIII B of the California Constitution because  
5 the only costs that may be incurred by a local agency or school  
6 district will be incurred because this act creates a new crime or  
7 infraction, eliminates a crime or infraction, or changes the penalty  
8 for a crime or infraction, within the meaning of Section 17556 of  
9 the Government Code, or changes the definition of a crime within  
10 the meaning of Section 6 of Article XIII B of the California  
11 Constitution.